

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

Item No. 9

Doc. No. 2

**TENTATIVE ORDER NO. R9-2005-0277
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST
CITY OF CARLSBAD
MUNICIPAL GOLF COURSE
FOR
NONCOMPLIANCE WITH WATER CODE § 13376
AND
STATE BOARD ORDER NO. 99-08-DWQ**

The San Diego Regional Water Quality Control Board (hereafter Regional Board), having received an offer by the City of Carlsbad (hereafter City) to waive their right to a hearing regarding violations alleged in Complaint No. R9-2005-0264, dated October 20, 2005, (Complaint) and settle their potential civil liability for violations alleged therein by accepting imposition of Civil Liability in the amount of \$23,900 and undertaking commitments to achieve compliance with applicable requirements for storm water management at the municipal golf course construction site, and having provided public notice thereof and not less than thirty (30) days for public comment on the settlement offer, and having received no comments objecting to the settlement, and having considered the settlement offer, finds as follows:

1. The State Water Resources Control Board (hereafter State Board) has issued updated statewide general waste discharge requirements for discharges of storm water runoff associated with construction activities involving disturbance of one acre of soil, or more. [*Order No. 99-08-DWQ, NPDES No. CAS000002.*]
2. City owns approximately 400 acres of property in or around 5800 Hidden Valley Road, Carlsbad, California described as the "Municipal Golf Course Project." City began construction activities at the site on September 8, 2005, without first filing a "Notice of Intent," as required by section A.2. of Order No. 99-08-DWQ. City filed a "Notice of Intent" 39 days late, on October 17, 2005 (WDID No. 9 37S337203).
3. City failed to implement its Storm Water Pollution Prevention Plan (SWPPP) by failing to install and maintain adequate Best Management Practices (BMPs) in violation of Order No. 99-08-DWQ section C.2 on at least 20 days, October 1, 2005 through October 20, 2005.
4. On October 20, 2005, the Executive Officer issued Administrative Civil Liability Complaint No. R9-2005-0264 to the City proposing imposition of \$23,900 in liability for the above violations.
5. City upon receipt of the Complaint paid the proposed liability amount of \$23,900 for failure to timely file a "Notice of Intent" and failure to implement its SWPPP and waived its right to a public hearing before the Regional Board.

**City of Carlsbad
Municipal Golf Course
WDID No. 9 37C337203**

6. On December 14, 2005, the Regional Board held a hearing to solicit public participation in this matter and received no comments regarding the adoption of this Order.
7. Liability in the amount of \$23,900 is based on staff's consideration of the factors prescribed in subdivision (e) of Water Code Section 13385 as applied to the allegations contained in Complaint No. R9-2005-0264.
8. By accepting the City's waiver and payment of the recommended liability, the Regional Board will conserve valuable staff resources that would have been allocated to preparation for a public hearing and responding to any administrative or judicial review requested by the City.
9. The liability tendered by the City is sufficient to deter the City from future non-compliance and should act as a deterrent to non-compliance by others.
10. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
11. The Regional Board incurred costs totaling \$6,369, which includes investigation, preparation of enforcement documents, and communication with the City regarding the enforcement action.

IT IS HEREBY ORDERED, that pursuant to section 13385 of the Water Code, that civil liability be imposed on the City of Carlsbad in the amount of \$23,900.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on December 14, 2005.

Tentative

JOHN H. ROBERTUS
Executive Officer